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HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition No. 484 of 2003

Petitioner : Vijay Kumar Tendon
S/o Late Showkhi Lal Tendon
Ex Child Constable, aged about 22 years,
R/o. Chatapara Police Line P.O. Bilaspur,
Tahsil and District Bilaspur (C.G.)

Versus

Respondents : 1. State of Chhattisgarh
Through Secretary Home
D.K.S. Building, Raipur (C.G.)

2. Director General of Police
State of Chhattisgarh
Raipur (C.G.).

3. Inspector General of Police
Chhattisgarh Police Bilaspur (C.G.)

4. Superintendent of Police
Chhattisgarh Police
Bilaspur (C.G.)

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

Shri H.S. Ahluwalia, counsel for the Petitioner.

Shri Sumesh Bajaj, Deputy Govt. Advocate for the
respondents/State.

ORAL ORDER

(13th January, 2006)

1. Learned counsel for the petitioner submits that the petitioner was appointed as child constable by order dated 20.9.1992 (Annexure P-3) under Regulation 60 of the Madhya Pradesh/Chhattisgarh Police Regulations, 1861.
2. Service of the petitioner was terminated vide order dated 2.8.2000 (Annexure P-1) without assigning any reason or without giving show cause notice on the ground that the petitioner has attained the age of 18 years.
3. The petitioner was removed from service of child constable on attaining 18 years of age. Regulation 60 of the Madhya Pradesh/Chhattisgarh Police Regulations, 1861 clearly provides that child constable on

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attaining 18 years of age be considered against the first available vacancy of constable under Regulation 53 for appointment. A bare reading of impugned order dated 2.8.2000 (Annexure P-1) does not indicate as to whether the petitioner was considered for appointment on the post of constable under Regulation 53 of the Madhya Pradesh/Chhattisgarh Police Regulations, 1861 or not.

4. Mr. Sumesh Bajaj, learned Deputy Govt. Advocate appearing for the respondents submits on the basis of affidavit/return filed on 18.10.2002 that "the petitioner had moved an application for appointment on the post of Constable on compassionate ground, thereupon he was referred to medical board for his medical examination. The Medical Board found that the petitioner was not fit to be appointed on the post of Constable".
5. Shri H.S. Ahluwalia, learned counsel appearing for the petitioner submits that Regulation 60 of the Madhya Pradesh/Chhattisgarh Police Regulations, 1861 does not require any application for appointment as constable under Section 53. The petitioner was not informed and no show cause notice was given to him with regard to his non selection by medical board.
6. After heard learned counsel for the parties and having perused the documents appended to the petition as well as to the return, it is evident that the respondents have not applied Regulation 60 properly. Regulation 60 clearly provides for consideration of child constable for appointment to the post of constable subject to suitability and fitness on the post. It appears that the petitioner was not considered on its own. However, as submitted by learned counsel for the respondents, the petitioner was considered by medical board on an application made by the petitioner for compassionate appointment.
7. The respondents have failed to comply with the provisions of Regulation 60 as well as Regulation 53 of the Madhya Pradesh/Chhattisgarh Police

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Regulations, 1861. It is clear violation of the statutory provisions of the Madhya Pradesh/Chhattisgarh Police Regulations 1861 and as such the impugned order dated 2.8.2000 (Annexure P-1) deserves to be quashed on the ground firstly, that no compliance of the statutory provisions was made and secondly, no show cause notice, affording an opportunity of hearing was issued before taking extreme steps of removal from the post.

8. In the facts and circumstances of the case, if the petitioner is not found suitable or medically fit for appointment on the post of constable, the petitioner may be considered for appointment on other post of clerical/ministerial staff. The petitioner had spent 8 years of childhood in the job of the respondents and as prime age of his life the petitioner can not be thrown like this.

9. For the reasons stated above, the petition is allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge